

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Applicant's' remarks after Final are appropriate under 37 C.F.R. §1.116 because they address the Office's remarks in the Final Action, and thus could not have been presented earlier. In addition, Applicant respectfully requests that the amendments and remarks be entered to place the application in condition for allowance or in better form for appeal.

Claims 1-16, 47, and 48 are pending in the application, with claims 1 and 47 being independent. Claims 1, 5-11, 14 and 48 have been amended to correct minor informalities. Claims 17-46 were previously withdrawn without prejudice to or disclaimer of the subject matter recited therein.

§ 103 REJECTIONS

Claims 1, 2, 4, 5 and 47 stand rejected under 35 U.S.C. § 103(a) as being obvious over Applicant's Admitted Prior Art ("AAPA") in view of U.S. Patent Application Publication 2003/0041267 to Fee (hereinafter "Fee").

Claims 3, 7, 14 - 16 and 48 stand rejected under 35 U.S.C. § 103(a) as being obvious over the AAPA and Fee combination, and further in view of U.S. Patent No. 7,266,677 to Bromley et. al. (hereinafter "Bromley").

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being obvious over the AAPA, Fee and Bromley combination, and further in view of U.S. Patent No. 4,430,677 to Segarra et. al. (hereinafter "Segarra").

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being obvious over the AAPA and Fee combination, and further in view of U.S. Application Publication 2004/0059941 to Hardman et. al. (hereinafter “Hardman”).

Claims 10-12 stand rejected under 35 U.S.C. § 103(a) as being obvious over the AAPA and Fee combination, and further in view of U.S. Patent No. 6,076,167 to Borza (hereinafter “Borza”).

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being obvious over the AAPA and Fee combination, and further in view of U.S. Patent No. 5,870,588 to Rompaey (hereinafter “Rompaey”).

Applicant respectfully traverses the rejections, and further requests that the rejections be reconsidered and withdrawn.

Applicant notes that the background of Applicant’s patent application (referred to by the office as “AAPA”) is not admitted prior art. In addition, the background section of the application does not disclose the limitations as claimed. Specifically, contrary to the assertion set forth in the rejection, paragraph 6 of the background section of the application does not disclose “means, based upon an identification (ID) for at least one of the first and second assembly of one or more files, for determining access privileges” as recited in claim 1, or “based upon an identification (ID) for at least one of the first and second assemblies, to determine access privileges” as recited in claim 47. Rather, paragraph 6 of the application as is cited by the Office states “the security model for the CLR bases access rights to a protected resource on Code Access Security (CAS), not on user identity.”

(Emphasis added). Thus, Applicant respectfully submits the cited portions of the specification do not disclose the recitations of independent claims 1 and 47.

Further Applicant respectfully notes that the provisions of 35 U.S.C. § 103(c) of the American Inventors Protection Act regarding subject matter that qualifies as anticipatory art under 35 U.S.C. §102(e) apply to Fee. Accordingly, Fee may not be used to preclude the patentability of the pending claim, and therefore the rejection of **claims 1 and 47** under 35 U.S.C. § 103(a) must be withdrawn.

More particularly, Applicant submits that Fee qualifies as anticipatory art only under 35 U.S.C. §102(e) because (A) Fee is a U.S. Patent Application with a filing date (June 5, 2002) earlier than the effective filing date of the subject application (February 3, 2004), with a publication date (February 27, 2003) that is not more than one year prior to the effective filing date of the subject application, and (B) the inventive entity of the subject application (Brumme et al.) is different than that of the cited reference (Fee). See MPEP § 706.02(a).

Furthermore, Fee is assigned to The Microsoft Corporation. Applicant respectfully submits that, at the time the subject matter of the present application was made, it was owned by, or subject to an obligation of assignment to, the same entity, namely The Microsoft Corporation, as evidenced by the assignment filed herein and recorded at Reel 012999 and Frame 0950.

Under the American Inventor's Protection Act, 35 U.S.C. § 103(c) as amended provides that art "which qualifies as prior art under one or more of subsections (e) (f) and (g) of section 102 shall not preclude patentability under this

section ...where the subject matter was at the time the invention was made, was owned by the same person or subject to an obligation of assignment to the same person.” See MPEP § 706.02(l)(1). Because 35 U.S.C. § 103(c) applies, Fee may not be used to preclude the patentability of pending claims 1 and 47.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections of pending claims 1 and 47 under 35 USC § 103(a) as being unpatentable over AAPA in view of Fee.

Dependent claims 2-16 and 48 depend either directly or indirectly from independent claims 1 and 47, respectively, and are allowable by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim. Accordingly, **Dependent claims 2-16, and 48** are allowable over the cited art, and the §103 rejection should be withdrawn.

CONCLUSION

For at least the foregoing reasons, claims 1-16, 47 and 48 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

The arguments and amendments presented herein were necessitated by the most recent Office Action, and could not have been presented previously because the final Office Action rejected claims based on new art not previously of record.

If any issue remains unresolved that would prevent allowance of this case, **Applicant requests that the Examiner contact the undersigned attorney to resolve the issue.**

Respectfully Submitted,

Lee & Hayes, PLLC

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